



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

April 18, 2012

Kia Sears, Esq.
Laura Rose, Esq.
Public Defender Service
633 Indiana Avenue NW
Washington, D.C. 20004

Re: United States v. Marcus Mclean
Case No. 2010-CF1-14969

Dear Counsel:

This letter sets forth the terms of the plea offer extended to your client, Marcus Mclean, in the above-referenced case. This plea offer is extended pursuant to the provisions of Rule 11(e) of the Superior Court Rules of Criminal Procedure.

This plea offer will remain open until April 19, 2012. However, the government reserves the right to revoke this plea offer at anytime before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

1. Your client, Marcus Mclean, agrees to enter a guilty plea in case number 2010-CF1-14969, to charge of Second Degree Murder While Armed, in violation of 22 D.C. Code Sections 2103 and 4502. Your client further agrees to provide a truthful factual proffer at the time of the plea.
2. Your client understands that the charge of Second Degree Murder While Armed carries a potential maximum statutory penalty of forty (40) years imprisonment. Your client also understands that the Court must require your client to pay an assessment to the Victims of Violent Crime Compensation Fund of at least \$100 for this felony count.
3. Subject to the court's acceptance, **your client and the Government agree to a sentence of not less than twenty-four (24) years and not more than twenty-eight (28) years incarceration**, to be followed by a period of (5) years supervised release. Your client understands that the agreed upon sentencing range of twenty-four (24) to twenty-eight (28) years incarceration

falls above the Voluntary Sentencing Guidelines that are applicable for the charge of Second Degree Murder While Armed, given your client's criminal history score of 0.25. Your client agrees to the sentencing range of not less than twenty-four (24) years and not more than twenty-eight (28) years incarceration, given the facts of the case, the government's evidence, and in consideration for being permitted to accept responsibility to the lesser-included offense of First Degree Murder While Armed, which is charged in the indictment.

4. Your client and the Government agree, pursuant to Rule 11(e)(1)(C) of the Superior Court Rules of Criminal Procedure, to present this plea agreement to the Court for its approval. If the Court accepts the plea agreement and the sentence specified by the parties, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(e)(3) of the Superior Court Rules of Criminal Procedure. The parties understand, however, that in light of other factors the Court may not agree that a sentence within the agreed upon range is an appropriate one and may reject the plea agreement pursuant to Rule 11(e)(4) of the Superior Court Rules of Criminal Procedure. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(e)(4), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement.

5. Your client agrees that he will remain in custody pending sentencing.

6. In entering a plea of guilty in case number 2010-CF1-14969, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute. In particular, your client knowingly and voluntarily waives or gives up his right against self-incrimination with respect to the offense to which your client is pleading guilty before the Court accepts your client's plea. Your client also understands that by pleading guilty your client is waiving or giving up your client's right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial and the right to confront and cross-examine witnesses.

7. Your client further agrees that if, pursuant to Rule 11(e)(4) of the Superior Court Rules of Criminal Procedure, the Court determines to reject the plea agreement of the parties as set out in this agreement, then the parties will return to the *status quo ante*, that is, the same position the parties and case were in on April 18, 2012, before the plea agreement was entered.

8. Your client understands that this Office reserves its full right of allocution for purposes of sentencing in this matter. However, the Government agrees that the sentence set forth in paragraph 3 is the agreed upon sentence in this case.

9. The Government reserves its right to full allocution in any post-sentence litigation in order to defend the Court's ultimate decision on such issues. Your client further understands that the Government retains its full right of allocution in connection with any post-sentence motion which may be filed in this matter and/or any proceeding(s) before the Bureau of Prisons. In addition, your client acknowledges that the Government is not obligated and does not intend to file any post-sentence motion in this case pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure.

10. Your client understands and agrees that your client will not be allowed to withdraw the guilty plea entered under this agreement solely because of the harshness of the sentence imposed. Such a motion to withdraw shall constitute a breach of this agreement.

11. The Government will move to dismiss the remaining counts of the indictment in case number 2010-CF1-14969 at the time of sentencing. However, your client agrees and acknowledges that the charges to be dismissed at the time of sentencing were based in fact and would not provide your client with a basis for any future claims as a "prevailing party" under the "Hyde Amendment," P. L. 105-119 (1997).

12. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.

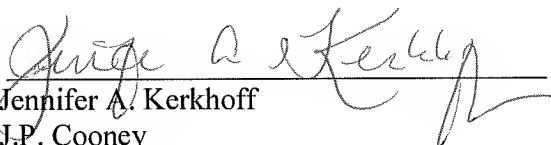
13. This agreement only binds the United States Attorney's Office for the District of Columbia. It does not bind any other United States Attorney's Office or any other office or agency of the United States Government, or any state or local prosecutor. These individuals and agencies remain free to prosecute your client for any offense committed within their respective jurisdictions.

14. There are no other agreements, promises, understandings or undertakings between your client and this Office. Your client understands and acknowledges that there can be no valid addition or alteration to this agreement unless the modification is made on the record in open Court or made in a writing signed by all of the parties.

Sincerely,

RONALD C. MACHEN JR.
UNITED STATES ATTORNEY

BY:


Jennifer A. Kerkhoff
J.P. Cooney
Assistant United States Attorneys

DEFENDANT'S ACCEPTANCE

I have read this plea agreement and have discussed it with my attorney(s), Kia Sears, Esq. and/or Laura Rose, Esq.

I fully understand this agreement and agree to it without reservation.

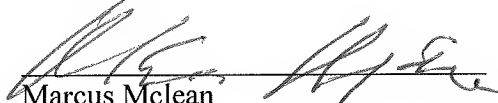
I do this voluntarily and of my own free will, intending to be legally bound.

No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this agreement fully.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement.

I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date: 4/18/12



Marcus Mclean
Defendant


ATTORNEYS' ACKNOWLEDGMENT

I have read each of the pages constituting this plea agreement, reviewed them with my client, and discussed the provisions of the agreement with my client, fully.

These pages accurately and completely set forth the entire plea agreement.

~~I concur in my client's desire to plead guilty as set forth in this agreement.~~

Date: 4/18/12



Kia Sears, Esq.
Laura Rose, Esq.
Attorney for the Defendant

**SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION - FELONY BRANCH**

UNITED STATES OF AMERICA	:	Criminal Case No. 2010 CF1 14969
	:	
v.	:	Judge Robert Morin
	:	
MARCUS MCLEAN	:	Trial: 04/24/2012

PROFFER OF EVIDENCE

If this case were to proceed to trial, the government's evidence would establish beyond a reasonable doubt:

1. On August 8, 2010, at approximately 3:00 am, the defendant, Marcus Mclean, and the decedent, Delando King, walked together to Mr. King's apartment building located at 1117 10th Street NW, Washington, D.C. The defendant and Mr. King went inside the building together, and went together to Mr. King's apartment, number 313, for the purpose of engaging in consensual sexual activity.

2. Once inside the apartment, Mr. King went to the bedroom and removed his clothing. The defendant, while armed with a large butcher-style kitchen knife, stabbed Mr. King in the bedroom, rendering him incapable of defending himself. As Mr. King lay on the bed, the defendant continued to stab Mr. King, inflicting a total of twenty-eight (28) stab wounds to the torso, including six (6) stab wounds that pierced Mr. King's heart. In addition to these stab wounds, the defendant inflicted multiple cuts to the arms, hands, and legs of Mr. King. As a direct result of these stab wounds, Mr. King died.

3. Mr. King did not threaten, assault, or harm the defendant prior to or during the stabbing. The defendant did not act in self-defense during the stabbing.

4. After stabbing Mr. King to death, the defendant poured bleach on Mr. King's body and attempted to clean the scene with towels. The defendant also rummaged through drawers and

took multiple items of property belonging to Mr. King, including his wallet, credit card, an I-pod, laptop computer, and green bag.

5. The defendant used Mr. King's credit card within an hour after the murder to purchase refreshments at a local CVS store. The defendant repeatedly used Mr. King's credit card over the course of the next 36 hours to see a movie and purchase clothes and food. The defendant gave Mr. King's I-pod to his sister.

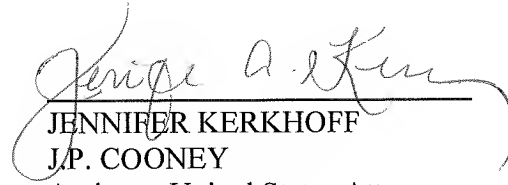
6. Multiple surveillance videos captured the defendant with Mr. King before the murder, and captured the defendant using Mr. King's credit card in various establishments in DC and Maryland after the murder.

7. At the time of the murder, the defendant knew that his actions were wrong and was capable of conforming his actions to the requirements of the law. Further, at the time of the murder, the defendant did not suffer from a dissociative state of mind, nor did he suffer from a black-out induced by post-traumatic stress disorder. At the time of the murder, the defendant acted voluntarily, willfully, and intentionally.

8. This proffer of evidence is a minimum statement of facts intended to provide the necessary factual predicate for the guilty plea. The truthfulness of the recited facts has been acknowledged by Mr. Mclean and was otherwise established by the government in the investigation leading to the indictment in this case. The limited purpose of the proffer is to demonstrate that there exists a sufficient legal basis for Marcus Mclean's plea of guilty.

Respectfully submitted,

RONALD C. MACHEN JR.
United States Attorney



JENNIFER KERKHOFF
J.P. COONEY
Assistant United States Attorneys

DEFENDANT'S ACCEPTANCE

I have read the above Proffer of Evidence setting forth the facts in support of my guilty plea. I have discussed this proffer fully with my attorney, Kia Sears, Esq. and/or Laura Rose, Esq. I fully understand this proffer and I acknowledge its truthfulness, agree to it and accept it without reservation. I do this voluntarily and of my own free will. No threats or promises have been made to me to induce me to adopt this Proffer of Evidence or to plead guilty, nor am I under the influence of anything that could impede my ability to understand this Proffer of Evidence fully.

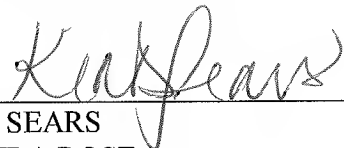
Date: 4/10/12


MARCUS MCLEAN
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the pages constituting the government's Proffer of Evidence as to my client's guilty plea. I have reviewed the entire proffer with my client and have discussed it with him fully. ~~I concur in my client's acceptance of this Proffer of Evidence.~~

Date: 4/10/12


KIA SEARS
LAURA ROSE
Counsel for Marcus Mclean